IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Criminal Misc.No.40727-M of 2004

Date of Decision: March 01, 2007

Balwinder Singh

...Petitioner

VERSUS

State of Punjab & others

...Respondents

CORAM: HON'BLE MR.JUSTICE RANJIT SINGH

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

Present: Mr.Mohd.Salim, Advocate,
for the petitioner.

Mr.M.C.Berry, Senior DAG, Punjab,
for the State.

Mr.Vipin Mahajan, Advocate,
for respondent No.3.

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RANJIT SINGH, J.

Prayer made in the present petition is for quashing of an FIR No.103 dated 27.6.2004 registered under Sections 366/120-B IPC at Police Station, Dina Nagar, District Gurdaspur. Chaman Lal, respondent No.2, lodged this FIR against the petitioner and others alleging that they had abducted his daughter

Paramjit Kaur, respondent No.3. The petitioner avers that the allegations in the FIR are totally false and in fact would not be supported even by the daughter of the complainant Paramjit Kaur, respondent No.3. It is disclosed that respondent No.3 was not happy with the behaviour of her father, the complainant/respondent No.2, who, as per the petitioner, is a very greedy person. It is further mentioned that the complainant was forcing her daughter to marry one Darshan Kumar, a resident of Nangal Bhaur, who was not a suitable match for his daughter. When respondent No.3 refused to accept the decision of her father, he started harassing her and even gave her beatings. When this process continued day in and day out, respondent No.3 moved a complaint against her father before Hon'ble the Chief Justice of Punjab and Haryana High Court on 9.8.2004. Copy of this complaint is annexed as Annexure P-1. It is thereafter that respondent No.2 had lodged a false case against Gurbachan Singh, who is the neighbour of the petitioner with the allegation that petitioner had helped and assisted said Gurbachan Singh for abducting his daughter. In fact respondent No.3, had voluntarily left the house of her father and had not been abducted, as alleged. The petitioner is now able to trace respondent No.3, who had started living with her aunt Manjit Kaur and has filed this petition alleging false implication, which according to him can be confirmed by respondent No.3 herself by appearing before the court to substantiate the fact that she was never abducted. Respondent No.3, who is aged about 20/21 years, has not only filed reply to the present petition on being put to notice, but appeared before the court on 25.1.2007 and made a statement, which was duly recorded.

Respondent No.3 categorically stated before the court that she was never abducted by Gurbachan Singh. Accordingly question of petitioner's helping, conniving or insisting said Gurbachan Singh to abduct respondent No.3 would not arise. She has also filed an affidavit saying that respondent No.2 had lodged a false case against the petitioner and others. She has also disclosed that her date of birth is 4.4.1981 and that her father wanted her to solemnize marriage to some old person, namely, Darshan Singh, for which she did not agree. It is also mentioned in the affidavit that when respondent No.2 pressed her hard for this marriage, she left the parental house and went to stay with her aunt, namely, Manjit Kaur wife of Subash Chand at Jammu. This factual position is not disputed by the State.

While issuing notice of motion in this case, it was made out that even if the petitioner is challaned, the trial would be an exercise in futility as the case of the prosecution would not seek any support from the version of the girl, who is alleged to have been abducted. This court, while permitting the prosecution to carry on with the investigation, directed that the challan be not filed. From the affidavit filed by respondent No.3 and her statement made before the court while appearing in person, it is clear that Paramjit Kaur, respondent No.3, was never abducted by Gurbachan Singh and is voluntarily staying with her aunt on account of the reasons as disclosed in her affidavit. The question of any instigation on the part of the petitioner for Gurbachan Singh to abduct Paramjit Kaur, respondent No.3, as such, would not arise. This is clearly a false case lodged at the instance of father, who was forcing his own

daughter to marry an aged and old person. Respondent No.3 is major and entitled to act free as per her wishes. The case of abduction alleged against the petitioner would not stand in view of the facts as noticed. The prosecution case is not being supported by the lady, who is allegedly abducted. This prosecution certainly would be a futile. No useful purpose would be served in permitting this prosecution to continue. This court would have ample power while exercising jurisdiction under Section 482 Cr.P.C. to interfere in such like matters and quash FIR. In this regard reference can be made to Haji Nihal Ahmad and others Vs. State of U.P. and another, 1998 Crl.L.J. 2082 where criminal case arising out of non-compoundable offences was ordered to be quashed. It was observed that even if proceedings in such cases are allowed to be tried by the court, the ultimate result would be an acquittal as the complainant party was not likely to support the prosecution. In S.M.Jayaram Vs. State of Karnataka, 1976 Crl.L.J.217, it was observed that after the parties had compromised among themselves, the police had no business to file a charge sheet etc. and to further represent that the case being under Section 379 IPC for theft can only be compounded with the permission of the Court. In State of Karnataka Vs. L.Muniswami AIR 1977 SC 1489 it was observed that in exercise of this wholesome power, the High Court is entitled to quash a proceeding if it comes to the conclusion that allowing the proceeding to continue would be an abuse of the process of the court or that the ends of justice require that the proceeding ought to be quashed. Though Full Bench of this court in Dharambir Vs. State of Haryana, 2005(3) RCR (Criminal) 426 did lay down some restriction on the powers of the court to quash

proceedings on the basis of a compromise in non-compoundable cases, yet it went on to observe that each individual case will have to be scrutinised to find out whether it attracts any of the provisions incorporated in Section 482 of the Code to impel the Court to grant relief to a party either in the exercise of the aforesaid power or under Article 226 of the Constitution. It is, thus, clear that inherent power under Section 482 Cr.P.C. can be invoked to quash the proceedings even in non-compoundable cases.

The present petition is accordingly allowed and FIR No.103 dated 27.6.2004 registered under Sections 366/120-B IPC at Police Station, Dina Nagar, District Gurdaspur and all subsequent proceedings arising therefrom are ordered to be quashed.

March 01, 2007 (RANJIT SINGH)
ramesh JUDGE